

**Honeywell Electronic Materials Manufacturing, LLC<sup>1</sup> and International Union of Operating Engineers, Local 280, AFL-CIO.** Cases 19-CA-30824, 19-CA-30949, and 19-CA-31017

August 28, 2008

**DECISION AND ORDER**

BY CHAIRMAN SCHAMBER AND MEMBER LIEBMAN

On March 26, 2008, Administrative Law Judge William G. Kocol issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel filed cross-exceptions, a supporting brief, and an answering brief, and the Respondent filed an answering brief and a reply brief.

The National Labor Relations Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,<sup>2</sup> and conclusions and to adopt the recommended Order.<sup>3</sup>

**ORDER**

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Honeywell Electronic Materials Manufacturing, LLC, Spokane, Washington, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

<sup>1</sup> We change the caption consistent with the parties' stipulation.

<sup>2</sup> The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

The judge inadvertently found that Plant Manager Al Cutrone visited employee Jeffrey Curry's work group in "about mid-April." Based on the credited testimony, Cutrone visited Curry's work group in early April, after Cutrone became aware of the Union's organizing campaign.

In adopting the judge's finding that the Respondent violated Sec. 8(a)(1) of the Act by interrupting an employee's nonwork-related conversations with other employees because the employee supported the Union, where those conversations were short and nondisruptive, Chairman Schaumber does not rely on the judge's finding that Supervisor Ray Cropp "had expressed incredulity of [Curry's union] support in light of how well Honeywell had treated Curry during his period of disability."

<sup>3</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Schaumber and Member Liebman constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

*Daniel Sanders, Esq.*, for the General Counsel.

*Bruce Michael Cross, Esq. (Perkins Cole, LLP)*, of Seattle, Washington, for Honeywell.

*Richard E. Pound, International Representative*, for the Union.

**DECISION**

**STATEMENT OF THE CASE**

WILLIAM G. KOCOL, Administrative Law Judge. This case was tried in Spokane, Washington, on January 15–16, 2008. The charges were filed on May 1, July 2, and August 16, 2007,<sup>1</sup> by the International Union of Operating Engineers, Local 280, AFL-CIO (the Union), and the second order consolidating cases, second consolidated complaint, and notice of hearing (the complaint) was issued on October 30. The complaint alleges that Honeywell Electronics Materials Manufacturing, LLC (Honeywell) violated Section 8(a)(1) by telling employees that there would never be a union at Honeywell, soliciting employees complaints and grievances and promising increased benefits and improved working conditions in response to the Union's organizing effort, and harassing employees by restricting employee conversations not related to production/work issues in response to employee activities in support of the Union and violated Section 8(a)(3) and (1) by terminating employee Terri Bedell because she supported the Union. Honeywell filed a timely answer that admitted the allegations in the complaint concerning the filing and service of the charges, jurisdiction, the Union's labor organization status, and supervisory and agency status. The answer denied the substantive allegations of the complaint and affirmatively stated that Honeywell had a well-established practice of soliciting employee questions, concerns, and grievances that predated the advent of the Union and that Bedell was fired for good cause.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Honeywell, I make the following

**FINDINGS OF FACT**

**I. JURISDICTION**

Honeywell, a corporation, is engaged in the business of manufacturing and supplying components and materials for the semiconductor industry at its facility in Spokane, Washington, where it annually purchases and receives goods valued in excess of \$50,000 directly from suppliers located outside the State of Washington. Honeywell admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

**A. Background**

There are about 363 persons working at Honeywell's Spokane facility; about 210 are hourly employees, 24 are contractors, and the rest are salaried, supervision, and management personnel. An organizing effort on behalf of the Union began among the machinists in mid-March. Honeywell has been

<sup>1</sup> All dates are 2007, unless otherwise indicated.

aware of the Union's organizing drive since early April. It voiced its opposition to the organizing drive in discussions with employees and in literature it distributed to them. During orientation of new employees, Honeywell expresses its employee relations philosophy as follows:

Honeywell is committed to maintaining union-free work environments where they currently exist and at all new facilities.

Honeywell is committed to managing its businesses in an open, participatory and customer-supportive manner, so that employees will not consider seeking an [sic] union.

Multiple avenues available for addressing issues/concerns:

- Skip levels & town hall meetings
- HR/Leadership team members always available
- Code of Business Conduct Leader & Access Line

Skip level meetings are usually composed of about 8 to 10 employees whose immediate supervisor is not present, but the next higher level supervisor and others do attend. About three or four of these small meetings are held every 3 months. According to a template used by Honeywell managers the purpose of the skip level meetings is to provide an opportunity to discuss current issues and concerns the employees have. Among the topics that may be discussed, according to that template, are safety, recent rumors or water cooler conversations, leadership, resources, processes that they would like to see changed, improved, or continued, and frustrations, roadblocks, and best practices. Among the talking points to be used at these meetings is the desire to keep channels of communication open, that the skip level meetings are not intended to be the only time for communication to happen—other avenues such as the open door policy remain—and the need to ask employees for ideas concerning the problems they raise at the meeting. Larger groups of employees attend about one town hall meeting per month. These meetings cover safety, plant performance, and other related matters and end with a question and answer session where employees are free to raise work related concerns.

Twice a year Honeywell surveys its employees by asking them to respond online to the following 15 statements:

1. My manager is consistent in the administration of policy.
2. My manager is sensitive to the need for personal and family time.
3. Leaders respond to questions, problems, and complaints in a timely fashion.
4. My manager often asks for and listens to my opinion and ideas.
5. I feel that I can talk to my manager when I have concerns.
6. I feel that there are opportunities for career growth, skill development and learning in my job.
7. My work environment is safe.
8. I fell [sic] that the Honeywell benefits are competitive.

9. I feel that my pay is competitive.

10. I feel the facility has steps for me to resolve my problems and concerns.

11. I believe my work environment is positive.

12. I feel that I am properly informed about company initiatives and future direction.

13. I feel that there is job security at Honeywell.

14. I fell [sic] that my performance is evaluated fairly.

15. I feel my work is appreciated.

Honeywell uses the survey responses to determine if there are areas that it needs to focus on in the upcoming months.

#### *B. The 8(a)(1) Allegations*

The complaint alleges that in mid-April, Honeywell violated Section 8(a)(1) by telling employees that there would never be a union at Honeywell's facility and by soliciting employees' complaints and grievances and promising employees increased benefits and improved terms and conditions of employment in response to the Union's organizing campaign. Al Cutrone is Honeywell's plant manager. At meetings with employees well before the Union began organizing Cutrone promised to spend time on the floor with employees to learn the work processes, but he did not do so until after Honeywell learned the organizing drive had started. Jeffrey Curry has worked for Honeywell for about 10 years as a journeyman machinist. He works with a group of about five employees and a supervisor. Curry was one of the chief supporters of the Union, and Honeywell knew this. In about mid-April, Cutrone visited Curry's work group as they were having their daily safety meeting at the start of their workday. Cutrone mentioned that he had finally gotten down there to work with them and that he was going to learn their work processes and what they actually did as machinists. Cutrone stated that he knew what the employees thought he was down there for, referring to the Union's organizing effort, but that was not the case. Cutrone proposed a bet with the employees. The bet was if they observed him violating any safety rules, he would buy them lunch, but if he observed the employees violating any safety rules, they would buy him lunch. Curry objected to the wager, stating that the employees would be working and Cutrone would not and that if Cutrone really wanted to do the work, the wager might be acceptable. Cutrone rejected Curry's suggestion. Then Cutrone asked if the employees had any safety problems and the meeting ended.

About 15 or 20 minutes later Cutrone approach Curry as Curry was working. Cutrone said hello and asked how Curry was doing; Curry had not met Cutrone before and introduced himself to Cutrone. Curry said he did not know much about Cutrone, to which Cutrone answered by saying he knew a lot about Curry. Curry asked why that was and Cutrone repeated that he just knew a lot about Curry. Curry asked Cutrone why he was down on the work floor. Cutrone answered that he was there to learn about their work processes and to understand what they did. Curry mentioned that Cutrone had been there for about 2 years and that he and other employees thought that things were getting worse instead of better and that was the reason the employees were seeking union representation. Cutrone asked Curry what were the problems. Curry said that there were quite a few, that there were good things about the

company and there were bad things. Cutrone asked if Curry was willing to meet with his leadership team to discuss the grievances. After thinking about it for a moment Curry said that he would not be willing to meet with Cutrone's leadership team alone, but that he would be happy to meet with them if he was allowed to have a witness or somebody on his behalf. Cutrone asked who Curry was talking about, and Curry answered either his personal attorney or a union representative. Cutrone answered that was not going to happen. Cutrone said that he needed Curry's help, that Curry knew the people there, Curry had been there a long time and people talked to him. Cutrone said that he would like some of those people to either write down some of their grievances or at least attend a meeting with him to discuss the grievances. Cutrone said that communication was important and that he did not think management and the employees were communicating well; Curry agreed. Cutrone said he was going to have to trust Curry, that he wanted Curry to help him out, and that he would be very disappointed if the employees did not talk to him. Curry replied that he thought Cutrone was giving him too much credit and that he did not have control over everyone. Curry said he did not know if the employees were willing to meet with Cutrone. Cutrone asked Curry again to have the employees write down their grievances. At some point during the discussion Cutrone looked directly at Curry and told him that there will not be a Union at Honeywell. Curry responded that he did not believe Honeywell could supersede Federal law in that matter, that the employees had a right to organize. Cutrone shook his head and repeated that Honeywell will not allow a union at that facility and that he could guarantee it.

Later Curry did ask other employees to write down some of their grievances and they did. Two lists were created. But Curry decided that it was not a good idea to meet with management, so he never gave the lists to Cutrone.

Cutrone admitted that he had wanted "to be out and engaged on the floor" but that his "busy calendar" prevented him from doing that until he decided to do so in early April by visiting Curry's work unit. Cutrone testified that Curry stated that it looked like Cutrone had decided to appear on the work floor because of the union activity. Cutrone answered that it was not the reason. Cutrone testified that Curry raised a number of issues and that he was surprised because he had not learned of the issues before. He claimed that he told the employees:

I care about those issues, and for me that they're communicated so that we can address those issues. So I expressed that if at any point in time [Curry], other people, a group, et cetera, wanted to come and sit down and talk whether it be with supervisors, with Human Resources, with me, do so, but bring the issues forward, and I'm still very happy to sit down with people to understand what all these issues are since I don't know about them.

Cutrone denied that he ever told Curry that there would never be a union at Honeywell. However, he also unconvincingly denied that Honeywell told employees that it preferred to remain nonunion. I have decided to credit Curry's testimony to the extent that it conflicts with Cutrone's. Curry's demeanor

was convincing; his testimony was detailed and seemed to flow naturally.

I have described above how Cutrone told Curry that there would never be a union at Honeywell's facility and then repeated the statement again but adding a guarantee the second time. By telling employees that there would never be a Union at Honeywell's Spokane, Washington facility, Honeywell violated Section 8(a)(1). *Wellstream Corp.*, 313 NLRB 698, 706 fn. 2 (1994). I have also described, above, how Cutrone solicited Curry to list the issues that caused the employees to seek union representation and to meet with Cutrone and his leadership team to address those issues. As Honeywell correctly argues in its brief, an employer who has a past policy and practice of soliciting employee grievances may continue to do so during an organizing campaign. *Wal-Mart Stores*, 339 NLRB 1187 (2003). Honeywell therefore was entitled to continue the various programs it had that involved solicitation of employee grievances. But here Cutrone's interaction with Curry was not part of any existing program. Instead, the timing of Cutrone's arrival on the work floor suggests that it was caused by the Union's organizing campaign and not as part of any ongoing program. Moreover, Cutrone admitted that he frequently reminded employees that they should present their grievances first to their immediate supervisors and to respect the chain of command. Cutrone's invitation to Curry to meet with him and his leadership team was therefore unprecedented. An employer may not rely on a past practice to justify solicitation of grievances where that employer significantly alters the past manner and method of solicitation of grievances. *Carbonneau Industries*, 228 NLRB 597, 598 (1977). By soliciting employees' grievances and promising to address them in order to undermine employee support for the union, Honeywell violated Section 8(a)(1). *Ampitech, Inc.* 342 NLRB 1131, 1137 (2004).

Next, the complaint alleges that in mid-April and on August 7 and 8, Honeywell violated Section 8(a)(1) by restricting non-work-related conversations among employees because the employees were seeking to be represented by the Union. Cutrone admitted that he told supervisors to minimize conversations among employees because "there's a lot of conversation that's just out and about right now because of the discussions around this Union." His explanation that he did so out of a concern for safety as opposed to the content of the conversations appears exaggerated.

In April, Ray Cropp became Curry's temporary supervisor. Curry continued to be open about his support for the Union. Curry had been on disability leave several months earlier, and Cropp asked Curry about his disability. Curry said he appreciated the fact that Honeywell had carried his insurance while he was on disability. Cropp said that he knew what going on, referring to the Union, that he was not stupid, and that he could not understand why Curry would take a stand like that after Curry had said so many good things about Honeywell. Curry replied that there were some very, very good things about Honeywell and there were some very bad things about Honeywell that needed to be addressed so that was why they were going in that direction.

In mid-April, Honeywell's health and safety manager asked Curry to participate in a conference call concerning the devel-

opment of a robotic arm for a new machine for Honeywell. Curry agreed, but asked that the manager clear it with Cropp ahead of time. The manager then did so. The conference call lasted from 8:30 to 9:15 a.m.; Curry's regular break period was from 9 to 9:15 a.m., so Curry took his break in the smoking shack after the call ended. After a few minutes into the break Cropp angrily approached him in the smoking shack and asked what was going on and what did Curry think he was doing? After Cropp was reminded of the conference call Cropp stiffened some, said "oh" and turned around and walked away. The conversation lasted a minute or so. Cropp essentially confirmed Curry's testimony, but explained that he had simply forgotten that Curry was otherwise engaged that morning. He denied following Curry around that morning because of Curry's support for the Union. But his testimony seemed a bit contrived. For example, he testified that after he approached Curry and was reminded the earlier scheduled event he told Curry: "I'm sorry. I forgot all about that. It's okay. Well, as soon as you're finished here we've got the team meeting going on. Can you please attend that?"

Curry raises chickens and sometimes gives eggs to fellow employees. Later the same day as the conference call employee Steve Anderson approached Curry at his work area. Anderson told Curry how much he had enjoyed the fresh eggs and asked if more eggs were available. Curry answered that he did not have them but would keep Anderson in mind in the future. Cropp then came to Curry's work area and angrily said that he wanted to be professional about this and that he knew talking goes on in the shop, but he'd like Curry to tell him just exactly how long Cropp should allow Curry to bullshit with other employees. Curry answered that he did not know what Cropp was talking about to which Cropp replied that Curry knew exactly what he was talking about, that Curry had been talking to Anderson for about 15 minutes. Curry looked at Cropp and said he disagreed that the conversation had lasted that long. After Cropp repeated the question a number of times Curry said that Cropp was the boss so Cropp should tell him how long he should be allowed to talk to other employees. At that point employee Jeff Kauffman began talking to Curry about a work-related matter. Cropp and Kauffman began talking outside of Curry's hearing range. Concerned that the matter was escalating Curry went to Cropp and Kaufman and asked Cropp whether they needed to go to HR about the problem they were having. Cropp angrily answered that he was talking to Kauffman. Cropp admitted he broke up the conversation with Anderson and Curry but claimed that he did so because he was new, did not know who Curry was talking to and so went over to introduce himself to Anderson. He again denied he did so because of Curry's support for the Union.

Curry then decided to talk to his regular supervisor, Lamont Cloy. Curry told Cloy about the events with Cropp. They spoke with Tony O'Neill, a subordinate of Cutrone, who said he would investigate the matter. Later that day Curry was summoned for a meeting with Hallie Krogh, a human resources representative, and Cropp. After someone mentioned that Curry talked a lot instead of working Curry noted that Krogh kept computerized records of Curry's work performance and Curry asked her whether there was a problem with his work

performance. Krogh replied that there was not, but that the meeting was not about his work performance. So Curry asked exactly what it was about. Krogh replied that Honeywell was instructing its supervisors to clamp down on employees talking and leaving their workstations. Curry disagreed that he was talking too much. Curry asked whether the matter would be documented or would go in his personnel file and Krogh answered that it was not a disciplinary matter and no record would be made.

In August, Curry was asked to help another work group. At the end of Curry's work day on about August 7, the lead person for the night shift for that work group, Craig Cox, arrived. Curry had worked with Cox several years earlier. Per normal procedure, Cox asked Curry what part he had been working on and how the machines were running. Curry told Cox the part he was running and that there were no problems. Cox mentioned about how they had worked together years ago but then he looked at Curry and asked if that was Curry's supervisor who was standing behind them and looking at his watch. Thinking that Cox was joking, Curry laughed. Cox indicated that he was not joking, so Curry looked around and saw Cropp standing about 10 feet behind them looking and pointing at his watch. Curry also thought Cropp was joking, so he turned back and resumed talking to Cox. Cropp then came up to them and asked Curry what he was doing there, still pointing to his watch. Curry pointed to his watch and asked Cropp what he was doing there because Cropp did not normally supervise that work group. Cropp said that he was serious. Curry then decided to avoid another escalation so he walked away and punched out. Cloy, who witnessed this event, and Cropp, for the most part, confirmed Curry's testimony concerning this incident. But Cloy testified that he asked Cox what he and Curry had been talking about and Cox said Curry was trying to solicit him to be a steward for the Union.

The next day Curry was at another workstation. As Curry was working, employee Tom Peltier came over and asked whether Curry had heard that another employee had been fired under suspicious circumstances. Curry replied that he had heard the story already. Peltier said okay and kept walking. The conversation took a matter of seconds. As Curry looked around he saw Cropp and a lead person looking at him from about 30 feet away. About 10 minutes later Cropp came over and asked Curry just what he thought he was doing. Cropp claimed that Curry was talking all the time and everyone talked to Curry all day long. Curry looked at Cropp and told him that he did not agree with that. Cropp again said that he was trying very hard to be professional and that Curry was not cooperating. Curry asked what Cropp was referring to, whether it was Peltier just coming by talking to him. Cropp said no, that was not what he was talking about, that he was referring to everyone else that Curry talked to. Curry immediately asked for an example of who else he had been talking to. After more words were exchanged Cropp walked away. Curry proceeded directly to human resources into Krogh's office. Curry told Krogh that he was having a serious problem and needed Krogh to do something about it; Curry said Cropp was harassing him. Cropp then walked in and joined Curry and Krogh. Cropp asked if the leadman could join them and Krogh and Curry agreed. Krogh

mentioned that she needed to talk to Curry about another matter. She then handed Curry a subpoena to appear as a witness on behalf of the Union at a representation hearing to be conducted by the Board. The leadman, Cory Wright, then joined the group and they all sat down at the conference table in the human resources office. Cropp asserted that Curry was talking all the time; Curry stated his disagreement. Curry again asked Krogh if his performance was substandard. Krogh again assured Curry that his performance was not at issue. Wright interjected that he knew what this was all about, that it was about the Union. Krogh replied that it was not about the Union. Wright then claimed that maybe the reason Cropp was only approaching Curry on the matter was that Curry's workstation was the first station that Cropp or anyone would see as they walked down the hall. Curry then asked several times for examples of how he was talking all the time. He asked how that was possible if his work performance was as good as, if not better than, other employees. Krogh replied that Honeywell had ordered the supervisors to crack down on excessive talking and that the employees were to be at their machines at all times. A fire alarm then sounded and they left the building. The meeting did not resume after the alarm ended.

The facts in the preceding paragraphs are based on a composite of credible portions of the testimony of Cloy, Krogh, and Curry. Cloy confirmed parts of Curry's testimony, including that Krogh said that there were a lot of "distractions" in the plant, referring to the union drive, and that the supervisors should keep the employees at their machines and help them remain "focused" so they can continue to do their jobs. Krogh, for her part, admitted that Wright raised the subject of the Union during the meeting in Krogh's office. Krogh denied that she made any statement along the lines that supervisors had been instructed to tighten up on things in the workplace, but I do not credit that portion of her testimony because Cloy confirmed Curry's testimony to the contrary and Cropp admitted that he had given the instruction to supervisors. I have considered Cropp's testimony. At the trial he was asked whether he was more vigilant about watching what Curry did during his workday than other employees. He answered:

Not on purpose, no. I mean naturally where his [work] area was, he was highly visible and often was approached by a lot of different members in the area. So there was always conversation going on. So naturally I was always interested in what was going on so I could learn, you know, whether it was a production issue or is there something I could help with. So I was always approaching the situation when I saw people discussing personal, you know, any kind of conversation. Most of [sic] time I didn't even ask about what it was about, but just my approach and it ended up being a natural barrier between [Curry] and myself automatically, just my approach of walking up. So he'd be on the defense right off the bat.

This testimony is revealing at several levels. First, Cropp's testimony that "there was always conversation going on" is supported by no one else and seems exaggerated. Read in its entirety, Cropp's testimony is that Curry indeed was the target of his effort to monitor conversations of employees. Cropp's excuse that the location of Curry's work area caused this more

careful monitoring rings hollow. Moreover, in other instances Cropp's testimony was evasive and inconsistent; his demeanor was unconvincing, particularly when I asked him questions near the end of his testimony.

There are no written work rules concerning employees talking to each other about nonwork-related matters. Employees often talk about matters such as sports. Krogh admitted that personal conversations about nonwork-related matters, like telephone calls and internet usage, "a little bit is allowed but as long as it isn't excessive and interrupting." She testified that she did not countermand Cropp's interruptions of Curry's conversations because she was able to conclude that Curry had stopped working and was standing and talking. However, this testimony too is unsupported by credible evidence; even Cropp did not claim work had stopped during these conversations. Rather, the thrust of his testimony was that the conversations were too frequent and too long in duration. Cloy testified that on one occasion he talked to an employee who he observed spending too much time going back and forth to the drinking fountain. He described another occasion involving a performance improvement plan for an employee who was spending time walking around the floor, talking to employees and staying in the packaging area too long.

In December 2004, Curry's supervisor spoke to Curry about what the supervisor perceived to be Curry's excessive talking to other employees.

#### Analysis

The evidence described above shows that in April and again in August Honeywell interrupted the conversations that Curry had with other employees. Curry was a known union supporter and was the subject of Cutrone's unlawful statements. His temporary supervisor, Cropp, who interrupted the conversations, knew of Curry's union support and had expressed incredulity of that support in light of how well Honeywell had treated Curry during his period of disability. As indicated, Honeywell does not have any written work rules concerning employee conversation about nonwork-related matters and such do occur. There is no credible evidence that the brief conversations that Curry had with other employees were more frequent, long lasting, or disruptive than other conversations that Honeywell allows. I take into account the fact that Curry had been warned before about excess talking, but that warning occurred more than 2 years earlier. More immediate in time was the Union's organizing campaign. I have considered Honeywell's argument that its conduct was lawful, but that argument is mostly based on facts that I have not credited. By interrupting an employee's nonwork-related conversations with other employees because the employee supported the Union, where those conversations were short and nondisruptive, Honeywell violated Section 8(a)(1).

#### C. The 8(a)(3) Allegation

Honeywell contends that it fired Terri Bedell because she gave a coworker a Honeywell award of \$25 for work the coworker did on Bedell's motorcycle. Bedell worked for Honeywell as a packaging specialist from December 2000, until her termination on May 1, 2007. She performed quality control functions on the product produced by the machinists. Bedell

actively supported the Union by speaking to other employees about it, distributing union literature, and soliciting signatures on authorization cards. She also wore a cap that indicated her support for the Union while at work. By about April 9, Honeywell knew that Bedell among other employees was supporting the Union's organizing effort.

Honeywell has a program where employees can reward and recognize each other for work-related performance. This program, called Bravo, is designed to make "it easy to shine the spotlight on someone who deserves extra praise for their hard work and create a memorable moment for them." The program has several levels. One level allows employees to give one another a \$25 award for work that goes above and beyond the daily performance. Employees are limited to giving four such awards per year. To do so employees go online and enter a website, indicate the name of the employee to receive the award, and select from among several phrases to describe the work effort of the award recipient. The award recipient's supervisor then receives electronic notification of the award; that supervisor or the awarding employee then may print the certificate and present it to the employee. No supervisory approval is needed to award the \$25.

Bedell owns a Harley motorcycle; she broke some parts on her motorcycle. Ken Gairson is a machinist for Honeywell; he does some machining work on the side at his home. In October 2006, Bedell asked Gairson if he could take a look at the broken parts to see if he could repair them. Because this was at the end of the cycling season in Spokane, she told Gairson that there was no hurry. They made no financial arrangements. Gairson later repaired the parts and returned them to Bedell in March. Although Bedell offered to pay \$100 for the work, Gairson charged and Bedell paid \$50.

Bedell regularly gave three or four Bravo awards per year. On March 22, about the same time she received the repaired parts, Bedell gave Gairson a Bravo award. The award certificate indicated that it was from "Terri 'Biker Babe' Bedell." Bedell selected the following language from among several choices to explain on the award certificate why she was giving the award to Gairson: "The pride of a 'CRAFTSMAN' is reflected in the quality of his work. Thank you for all that you do." Bedell printed the certificate, placed it in an envelope, and asked Gairson's supervisor, Lamont Cloy, to give it to Gairson. Bedell told Cloy that she thought Gairson was about the best machinist she had ever come across and he deserved the award. She also told Cloy that Gairson had repaired her motorcycle parts and she was very pleased with the work he had done. She offered to show Cloy the parts that Gairson had worked on. The next day Cloy gave Gairson the certificate but Gairson became concerned about the matter and gave the certificate back to Cloy. Gairson told Cloy that he felt Bedell gave him the award because he had done some work on Bedell's motorcycle parts. Gairson and Cloy later had another conversation and Cloy said he would try and cancel the award.

Bedell had inspected Gairson's work in the past and had praised it but never before given him a Bravo award for his work at Honeywell. But since June 2006, Gairson was working on the weekend shift. Bedell rarely, if ever, inspected Gairson's work during that time period. At the trial in this case

Bedell candidly admitted that she decided to give the award to Gairson because he had recently returned the motorcycle parts to her. She also explained that after receiving the motorcycles parts she remembered that Gairson was a great machinist.

A week or so later Bedell was summoned to human resources where Krogh and Vicki Singer, a production supervisor, were present. Krogh asked Bedell why she gave the award to Gairson. Bedell answered that she gave Gairson the award because Gairson was an excellent machinist. Krogh asked if it had anything to do with Gairson's working on Bedell's motorcycle. Bedell told Krogh that she gave Gairson the award because of his excellent craftsmanship and not as payment for the work he had done for her. Krogh asked whether Bedell paid Gairson for the work he had done; Bedell did not answer, instead telling Krogh that she did not think what she and a co-worker did off of Honeywell property was of concern to Honeywell. About 2 weeks later Bedell again met with Krogh and Singer. Krogh stated that it looked very coincidental that Bedell gave Gairson the award after Bedell received the motorcycle parts. Bedell again told Krogh that the award was not payment for the parts. Krogh again asked if there were any financial arrangement for the work and Bedell again gave the same response. Still later Bedell again met with Krogh and Singer; this time Terry Samona, Honeywell's human resources manager, was also present. The same questions were asked and answers were given. This time Samona mentioned that Gairson was concerned about possible disciplinary action and had offered to return the \$25 to Honeywell. Samona asked why she signed her name as Terri "Biker Babe" Bedell; Bedell answered that she wanted to make sure Gairson knew who she was because he might not know her last name. Samona said the matter would be investigated further. During this same time period Samona, Cloy, and Krogh spoke several times with Gairson who assured them that he did not work on Bedell's motorcycle parts while at work. Gairson told them that he thought Bedell gave him the award because he had worked on the motorcycle parts and that he had not done work that Bedell had inspected in quite some time. He also stated that he did not want to get Bedell in trouble. At some point Gairson placed \$25 on a table in an effort to return the money to Honeywell; Honeywell declined to accept the money. Samona then instructed Cloy to examine the records to determine how long it had been since Bedell might have inspected Gairson's work. Cloy's search revealed that Bedell would not have had occasion to see Gairson's work for several weeks before giving him the award. On April 26, Samona prepared a detailed summary report of the investigation, recommended that Bedell be fired, and submitted the report and recommendation to his superiors. An incident report detailing the reasons for Bedell's discharge indicated:

Because of the inconsistencies in her story and her inability to substantiate the business need for awarding this BRAVO,

Terri Bedell was found to have violated both Honeywell's Conflict of Interest and Theft/Misuse of Property policies. The Bravo program provides the opportunity to recognize co-workers and give them meaningful recognition, including Peer Star \$25 awards. However, it is clearly stated on the Bravo [unreadable] in page, that any abuse or misuse uncovered by continuous audits of the program could result in discipline, up to and including termination of employment. Additionally, Terri appeared to be less than truthful during the investigation and there is no finished work product that can be directly identified as Ken Gairson's for at least six weeks prior to the BRAVO award being given. Honeywell cannot tolerate instances where employees knowingly and willfully disregard established policies. Her poor judgment and disregard for corporate policies are not the kind of behaviors that we want our employees to emulate.

Finally, on May 1, Bedell was fired. In the presence of Samona and Krogh, Singer read Bedell's termination letter to her. That letter read, in pertinent part:

Effective today, your employment with Honeywell is terminated as a result of your actions on March 22, 2007 which included inappropriate use of the Honeywell Bravo system.

Bedell has been the only employee disciplined for improper use of the Bravo system since January 15, 2005, to the date of the trial. On the other hand, there is also no evidence that Honeywell has allowed employees to give Bravo awards for non-work-related matters. Eleven employees have received verbal warnings, in written form, for operator errors involving parts that were scrapped and that were frequently valued in excess of \$1000 and higher.

The facts in this section of the decision are based on a composite of the credible testimony of Bedell, Samona, Cloy, and Krogh. I questioned Samona rather extensively concerning why he decided to fire Bedell instead of imposing lesser discipline; he explained that what Bedell did amounted to a conflict of interest and theft and misuse of company property. I credit this testimony. Samona's demeanor was convincing and this testimony fits easily with the record as a whole.

I apply *Wright Line*, 251 NLRB 1083 (1980), *enfd.* 662 F.2d 889 (1st Cir. 1981), *cert. denied* 455 U.S. 989 (1982), in determining whether Bedell's discharge was unlawful. The General Counsel has shown that Bedell supported the Union and Honeywell knew this. Honeywell opposed the unionization of its employees and violated the Act in doing so, as I have described above. Bedell's discharge occurred during the ongoing organizing drive. However, Honeywell's unlawful statements were not directed at Bedell herself and the timing of her discharge occurred close in time to the Bravo award that she gave Gairson. I nonetheless conclude that the General Counsel has met his initial burden under *Wright Line*.

I find that Honeywell could reasonably conclude that Bedell gave Gairson the \$25 not because of any work-related reason but rather because he repaired her motorcycle parts. The General Counsel argues that the amount of the award was fairly insignificant, especially when compared to the costly errors that Honeywell has tolerated from other employees. But Honeywell persuasively argues that those errors were unintentional

whereas Bedell purposefully gave the award to Gairson. Moreover, at issue was not merely the amount of the award but the efficacy of the award program itself. Finally, I have credited Samona's explanation as to why Honeywell did not give Bedell a lesser punishment. I note that Honeywell thoroughly investigated the matter and did not act precipitously in discharging Bedell. I also note the investigation was triggered by the concerns Gairson expressed about the legitimacy of the award and not by a search for wrongdoing by Honeywell. All this leads me to conclude that Honeywell has shown that it would have fired Bedell even in the absence of her union activity. I shall dismiss this allegation of the complaint.

#### CONCLUSIONS OF LAW

1. Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act by:

2. Telling employees that there would never be a Union at Honeywell's Spokane, Washington facility.

3. Soliciting employees' grievances and promising to address them in order to undermine employee support for the union.

4. Interrupting an employee's nonwork-related conversations with other employees because the employee supported the Union, where those conversations were short and nondisruptive.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>2</sup>

#### ORDER

The Respondent, Honeywell Electronics Materials Manufacturing, LLC, Spokane, Washington, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Telling employees that there would never be a Union at Honeywell's Spokane, Washington facility.

(b) Soliciting employees' grievances and promising to address them in order to undermine employee support for the union.

(c) Interrupting nonwork-related conversations among employees because employees support the Union, where those conversations are short and nondisruptive.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

<sup>2</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facility in Spokane, Washington, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 15, 2007.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

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<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

### NOTICE TO EMPLOYEES

#### POSTED BY ORDER OF THE

#### NATIONAL LABOR RELATIONS BOARD

#### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT tell employees that there would never be a Union at Honeywell's Spokane, Washington facility.

WE WILL NOT solicit employees' grievances and promise to address them in order to undermine employee support for the union.

WE WILL NOT interrupt nonwork-related conversations among employees because employees support the Union, where those conversations are short and nondisruptive.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

HONEYWELL ELECTRONICS MATERIALS MANUFACTURING, LLC